

# Agenda

## Item #9



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commission Members  
From: Jonathan Wayne, Executive Director  
Date: March 25, 2008  
Re: Requirements for Lobbyist Registration

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At the January 25, 2008 meeting, Commission member Mavourneen Thompson suggested that the Commission consider whether the current lobbyist registration requirements are sufficient. Current law defines 'lobbyist' as someone who lobbies for more than eight hours in a calendar month for compensation:

**10. Lobbyist.** "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. (3 M.R.S.A. § 312-A(10))

Once an individual qualifies as a lobbyist, he or she must register with the Commission within 15 business days and begin filing monthly reports.

At the January 25 meeting, the Commission considered lobbying and other services provided by the Verrill Dana law firm for the Maine Community Cultural Alliance in support of legislative funding for arts and cultural programs. As part of its submission to the Commission, the firm provided a summary of time spent providing lobbying and other services (labeled Exhibit 6). The columns headed "Lobby" show the number of hours that James Cohen and Michael Saxl spent lobbying for the client for each month

from May 2004 to September 2007. At the meeting, the Commission agreed with the view proposed by staff that Verrill Dana was not required to register as a lobbyist for the Maine Community Cultural Alliance.

Ms. Thompson raised the issue that under the current statute, individuals could lobby the Legislature on behalf of a paying client for several hours each month - not exceeding the 8-hour threshold - and that this could accumulate to a significant amount of unreported lobbying over the course of a legislative session.

To gather further input on the issue, on February 29, 2008, I invited lobbyists to comment by e-mail. I received two substantive comments (attached) plus two more informal comments that there is no problem with the current statute.

If the Commission wishes to make a legislative proposal regarding this issue, it could consider proposing a second threshold (in addition to the 8-hour-per-month threshold) which would require an individual to register as a lobbyist if he or she lobbied for more than 25 hours during a lobbying year on behalf of a paying client. (The lobbying year begins on December 1 of each year and concludes on November 30.) One drawback of this proposal, however, is that a lobbyist could begin lobbying in January and not be required to register until April, which would make the reporting less timely.

MAINE COMMUNITY CULTURAL ALLIANCE  
TIME ENTRIES  
MAY 2004 THROUGH SEPTEMBER 2007

EXHIBIT

tabbles

6  
(2)

Month	Year	JIC			MVS			Others		
		Total	Lobby	Other	Total	Lobby	Other	Total	Lobby	Other
5	2004	3.1	0.2	2.9	2.2	0	2.2	0	0	0
6	2004	5.7	0	5.7	11.5	0	11.5	0	0	0
7	2004	8.2	1	7.2	9.6	0	9.6	0	0	0
8	2004	0.7	0	0.7	0.5	0.3	0.2	0	0	0
9	2004	3.4	0.4	3	1.5	0.2	1.3	0	0	0
10	2004	5.8	0	5.8	7.9	1.5	6.4	0.5	0	0.5
11	2004	3.2	0	3.2	8.9	0.6	8.3	0.9	0	0.9
12	2004	1.6	0.1	1.5	22.4	7.1	15.3	7.9	0	7.9
1	2005	13.2	3.4	9.8	11.5	1.6	9.9	5.2	0	5.2
2	2005	20.1	7.7	12.4	41	4.7	36.3	6.5	0	6.5
3	2005	14.8	3.1	11.7	32.8	6.8	26	3.3	0	3.3
4	2005	12.7	3.3	9.4	14.6	2.4	12.2	5.8	0	5.8
5	2005	18.6	6.9	11.7	22.1	6.6	15.5	13.3	0	13.3
6	2005	17	5	12	34.9	5.5	29.4	12.1	6.9	5.2
7	2005	5	1	4	19.6	6.7	12.9	24.1	0	24.1
8	2005	5.6	1	4.6	12.1	2	10.1	0.1	0	0.1
9	2005	6.9	0	6.9	7	0.3	6.7	0.1	0	1
10	2005	2.4	0	2.4	17.7	2.5	15.2	3.7	0	3.7
11	2005	4.1	0	4.1	10.2	1.4	8.8	2.2	0	2
12	2005	1	0	1	10.9	5.1	5.8	2.6	0	2.6
1	2006	6.1	1.7	4.4	19.9	3.5	16.4	9.1	0	9.1
2	2006	2.5	0.2	2.3	13.1	4.8	8.3	2.0	0	0
3	2006	1.7	0.8	0.9	11.3	2.6	8.7	2.0	0	0
4	2006	3.3	0	3.3	5.7	0.2	5.5	3.7	0	3.7
5	2006	0.7	0.3	0.4	1	0	1	2.0	0	0
6	2006	0	0	0	3.7	0	3.7	2.0	0	0
7	2006	0	0	0	22.1	0	22.1	2.0	0	0
8	2006	0	0	0	1.1	0	1.1	2.0	0	0
9	2006	0	0	0	3.1	0	3.1	2.0	0	0
10	2006	0	0	0	1.6	0	1.6	0	0	0
11	2006	0	0	0	3.9	0	3.9	0	0	0
12	2006	2.9	0.2	2.7	12.7	1.8	10.9	0	0	0
1	2007	3.8	0	3.8	3.3	0.2	3.1	0	0	0
2	2007	2.9	1.2	1.7	5.8	2.7	3.1	0	0	0
3	2007	1.6	0.8	0.8	1.1	0.6	0.5	0	0	0
4	2007	3.5	0.4	3.1	1.6	0.7	0.9	0	0	0
5	2007	0.4	0.2	0.2	0	0	0	0	0	0
6	2007	0	0	0	3.9	0	3.9	0	0	0
7	2007	1.6	0	1.6	0	0	0	0	0	0
8	2007	1.2	0	1.2	0	0	0	0	0	0
9	2007	0.3	0	0.3	0	0	0	0	0	0
TOTAL		185.6	38.9	146.7	413.8	72.4	341.4	101.8	6.9	94.9

**Wayne, Jonathan**

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**From:** Charlie Soltan [Charles.Soltan@Soltanlaw.com]  
**Sent:** Monday, March 03, 2008 7:34 AM  
**To:** Wayne, Jonathan  
**Subject:** Re: More Opportunities to Comment on Changes to Lobbyist Disclosure Law

Good Morning Jonathan. One issue for many of us on the 5th is that there are about 5 hearings I need to be at. It is a hell of a day, so this hearing is down on the list! The picture idea really ought to go away by the way!

As to the 8 hour rule, it has been very effective and works very well. If you lower it or remove it, it will sweep in numerous people who take a day off work to come give their views on important issues before the legislature. These are not just "business" people but people of all political views. I would be very opposed to any change in the rule. The Commissioner's concern is unfounded as I have never seen it. It would be very difficult to engage for 8 hours a month and then disengage. Issues are not that conveniently timed. They come all at once or are strung out so that you are in or out quite clearly. If someone were to claim this kind of behavior, then they are not likely complying with the current law. I just have not seen this happen in my 20 years of lobbying. While theoretically possible, is is not what happens. We should legislate for the real world, not the theoretical world. Please do not change this well regarded and practical rule.

I hope this helps. Take care, Charlie

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----- Original Message -----

**From:** Wayne, Jonathan  
**To:** Wayne, Jonathan  
**Sent:** Friday, February 29, 2008 12:40 PM  
**Subject:** More Opportunities to Comment on Changes to Lobbyist Disclosure Law

**Legislative Action**

One week ago, I e-mailed you to let you know that on March 5 at 1:00 p.m. the Legal and Veterans Affairs (LVA) Committee will hold a public hearing on an amendment to LD 2068. This is to advise you that on the following day (March 6, at 1:00 p.m.), the LVA committee will be holding a work session on that amendment and on two lobbyist disclosure bills (LD 1393 and LD 2068).

**Matter before the Ethics Commission**

One of the members of the Ethics Commission, Mavourneen Thompson, has asked that the Commission consider whether to recommend a statutory amendment to the 8-hour-per-month threshold for lobbyist registration. She is concerned about one specific issue: that individuals could lobby the Legislature on behalf of a paying client for several hours each month - not exceeding the 8-hour threshold - and that this could accumulate to a significant amount of unreported lobbying over the course of a legislative session. She does not have a specific proposal yet. The Commission will be considering the issue at its March 31 meeting which will begin at 9:00 a.m. If you would like to express a viewpoint, please feel free to e-mail comments to me by March 21 that I will distribute to the Commission members or to come to the meeting.

Thank you.

**Wayne, Jonathan**

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**From:** [REDACTED]  
**Sent:** Friday, February 29, 2008 2:36 PM  
**To:** Wayne, Jonathan  
**Subject:** RE: More Opportunities to Comment on Changes to Lobbyist Disclosure Law

Jonathan,

Thanks for the notification. I was aware of both the public hearing and the work session, but had not heard of the Commission's concerns with the 8 hour threshold. I can tell you from my own experience, that I have had a few, rare occasions where I've been able to handle a client's legislative concerns without ever reaching the monthly 8 hour limit that triggers registration and reporting. As a result, my activities on behalf of such client(s) went unreported for that year, yet I was fully in compliance with the provisions of the law. It's just another example of some of the unintended consequences that changes to the lobby laws have produced over the years. Perhaps a solution might be to retain the 8 hour trigger for any given month, but to add a second "cumulative" threshold for registration and reporting.

Ralph

-----Original Message-----

**From:** Wayne, Jonathan [mailto:Jonathan.Wayne@maine.gov]  
**Sent:** Friday, February 29, 2008 12:41 PM  
**To:** Wayne, Jonathan  
**Subject:** More Opportunities to Comment on Changes to Lobbyist Disclosure Law

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